



# City of San Antonio

## Legislation Details (With Text)

**File #:** 15-5165  
**Type:** Staff Briefing - Without Ordinance  
**In control:** Board of Adjustment

**On agenda:** 10/5/2015

**Title:** A-15-154: A request by Shannon O'Malley for a 9 foot variance from the minimum 20 foot rear setback to allow a rear addition 11 feet from the rear property line, located at 811 E. Magnolia Avenue. (Council District 1)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. A-15-154 Attachments

Date	Ver.	Action By	Action	Result
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**Case Number:** A-15-154  
**Applicant:** Shannon O'Malley  
**Owner:** Christopher O'Malley  
**Council District:** 1  
**Location:** 811 E. Magnolia Avenue  
**Legal Description:** Lot 3 & east 5 ft. of 2, NCB 6939  
**Zoning:** "R-4 H RIO-1 AHOD" Residential Single-Family River Road Historic River Improvement Overlay Airport Hazard Overlay District  
**Case Manager:** Margaret Pahl AICP, Senior Planner

### Request

A request for a 9 foot variance from the minimum 20 foot rear setback, as described in Table 35-310-1, to allow a rear addition 11 feet from the rear property line.

### Executive Summary

The subject property is located in the River Road Historic District and contains approximately 7,000 square feet. The house was originally constructed in 1920 and includes 1,070 square feet. The applicant hopes to construct a 700 square foot addition in the rear. Since the property is located in a historic district, the design requires a Certificate of Appropriateness from the Historic Design and Review Commission. The City's adopted Historic Design Guidelines require that additions be designed to be low-profile and hidden from view. This goal was achieved by the architect and the certificate was issued in August. The proposed addition is currently designed to encroach 9 feet into the minimum 20 foot rear yard setback. The applicant is seeking a variance to allow this encroachment. The adjacent property is the old River Road Country Day School, now used as a private residence.

The design of the building addition includes a master bedroom, closet space and a bath. The bath/closet area is

located at the rear of the addition with only small opaque windows to reduce the potential impact of the encroachment into the setback. It was also designed in this alignment to retain the minimum 10 foot spacing from the existing detached garage.

**Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
“R-4 H AHOD” Residential Single-Family River Road Historic Airport Hazard Overlay District	Single-Family Residential

**Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
North	“R-4 H HS AHOD” Residential Single-Family River Road Historic Historic Significant Airport Hazard Overlay District	Single-Family Residential
South	“R-4 H AHOD” Residential Single-Family River Road Historic Airport Hazard Overlay District	Single-Family Residential
East	“R-4 H AHOD” Residential Single-Family River Road Historic Airport Hazard Overlay District	Single-Family Residential
West	“R-4 H AHOD” Residential Single-Family River Road Historic Airport Hazard Overlay District	Single-Family Residential

**Comprehensive Plan Consistency/Neighborhood Association**

The property is located within the boundaries of the River Road Neighborhood Plan and currently designated as Low-Density Residential in the future land use component of the plan. The subject property is also located within the boundaries of the River Road Neighborhood Association, a registered neighborhood association. As such, they were notified of the request and asked to comment.

**Criteria for Review**

According to Section 35-482(e) of the UDC, in order for a variance to be granted, the applicant must demonstrate all of the following:

1. *The variance is not contrary to the public interest.*

**The public interest is defined as the general health, safety, and welfare of the public. In this case, the public interest is represented by minimum setbacks of 20 feet in the rear yard. Only 6 of the 15 residential districts require a 20 foot setback; the other 9 allow the 10 foot setback. Therefore, a 10 foot setback has been recognized as adequate in many areas. The proposed encroachment in this case is the restroom, which includes only opaque windows, making the variance not contrary to the public interest.**

2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*

The special circumstance present on the subject property is that the historic district design standards require that building addition be concealed behind the original structure to preserve the integrity of the district streetscape. Therefore this unique circumstance makes literal enforcement an unnecessary hardship.

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*

The spirit of the ordinance is defined as the intent of the code rather than the letter of the law. Rear setbacks are designed to provide separation and privacy, which in this case is further enhanced by the dense vegetation. This variance observes the spirit of the code.

4. *The variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located.*

The requested variance will not authorize the operation of a use on the subject property other than those specifically permitted in the “R-4 H AHOD” Residential Single-Family River Road Historic Airport Hazard Overlay District.

5. *Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located.*

The surrounding neighborhood is one of the most desirable locations in the City of San Antonio. The proposed addition to add a master bedroom, closet space and bath will be hidden behind the original home and will not alter the character of the district.

6. *The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located.*

Designing additions to homes in a historic district can be difficult; it must be unnoticeable from the public street. The proposed design has been reviewed and approved by the HDRC.

#### **Alternative to Applicant’s Request**

The applicant could reduce the size of the addition.

#### **Staff Recommendation**

Staff recommends **APPROVAL** of **A-15-154** based on the following findings of fact:

1. The required design standards restrict options for adding needed square footage.